

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

IN RE:

CASE NO. 16-33629

Christopher Shawn Kuhn

CHAPTER 7

Debtor(s).

JUDGE Lawrence S. Walter

MOTION OF SECURED CREDITOR,
U.S. BANK NATIONAL ASSOCIATION,
FOR RELIEF FROM STAY

WITH NOTICE OF RESPONSE
Real Property located at:
201 4th Street, Lewisburg, OH 45338

Now comes the Secured Creditor/Mortgagee, U.S. Bank National Association,
("Movant") by counsel, who states as follows:

1. That the Debtor filed in this Court a petition under 11 U.S.C. Chapter 7 as a result of which certain acts and proceedings against the Debtor and their property are stayed.
2. That the Debtor(s) are indebted to it in the current principal sum of \$70,295.97, plus interest at the rate of 5.500% per annum from April 1, 2016 and advances upon a certain Promissory Note executed by Debtor, a copy of which is attached hereto as Exhibit "A".
3. A copy of the deed to the Property is attached here as Exhibit D.
4. As evidenced by the assignments, endorsements, and/or allonges attached to the Note, the Note was transferred to Movant as follows: By endorsement from Union Savings Bank, A Corporation to U.S. Bank National Association; By blank endorsement from U.S. Bank National Association to blank. See Exhibit A hereto. The Movant or one or more of its custodians or agents is in possession of the Note as of the date of this motion.

5. Pursuant to that certain Open-End Mortgage (the “Mortgage”), all obligations (collectively, the “Obligations”) of the Debtor(s) under and with respect to the Note and the Mortgage are secured by the Property and the other collateral described in the Mortgage. A copy of the Mortgage is attached hereto as Exhibit B. As evidenced by the Assignment of Mortgage executed on July 21, 2016 and recorded on July 28, 2016, a copy of which is attached hereto as Exhibit C, the Mortgage was transferred from (MERS) Mortgage Electronic Registration Systems, Inc. as nominee for Union Savings Bank, a Corporation its successors and assigns to U.S. Bank National Association.

6. That said Note is secured by a Mortgage of even date which Mortgage was filed for record in the Office of the Recorder of Preble County, Ohio on October 7, 2009 and is the first and best Lien on the real property therein described. A copy of the Mortgage is attached to this Motion as Exhibit “B”.

7. U.S. Bank National Association Services the loan on the Property referenced in this Motion for Relief from Stay. Debtor(s) executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.

8. As of December 28, 2016 the interest of this Movant is not adequately protected due to the failure of the Debtor(s) to make the payment due for the months of May 1, 2016 through December 1, 2016, which unpaid payments are in the aggregate amount of \$5,181.23, less suspense of \$0.00, for a total amount due of \$5,181.23, and as a result, said note is now in default. An additional payment will come due on January 1, 2017 and on the 1st day of each month until the loan is paid in full.

9. That the 2015 value of said premises, as determined by the Treasurer of Preble County, Ohio is \$79,000.00.

10. Movant has completed the worksheet, attached as Exhibit E.

11. Movant requests that the Fourteen (14) day stay set forth in Rule 4001(a)(3) be waived.

WHEREFORE, the Secured Creditor, U.S. Bank National Association, moves this Court for an Order granting it relief from stay.

LAURITO & LAURITO LLC

/s/Nicholas E. O'Bryan

Nicholas E. O'Bryan (0082711)

Attorney for Movant

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Dayton, OH 45459

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United States Bankruptcy Court
Southern District of Ohio
120 West Third Street
Dayton, OH 45402

IN RE:

CASE NO. 16-33629

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JUDGE Lawrence S. Walter

NOTICE OF MOTION FOR RELIEF
FROM STAY

U.S. Bank National Association filed papers with the Court requesting relief from stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).

If you do not want the Court to grant the Motion requested, or if you want the Court to consider your views on the Motion, then you or your attorney must:

File with the Court a written response to the Motion, explaining your position, within twenty-one (21) days from the date the Motion is filed at:

U. S. Bankruptcy Court
Southern District of Ohio
120 West Third Street
Dayton, OH 45402

If you mail your request/response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

You must also mail a copy to:

Nicholas E. O'Bryan
7550 Paragon Road
Dayton, OH 45459
Attorney for Movant

Joyce M Deitering
8801 North Main Street
Suite 200
Dayton, OH 45415-1324
(937) 898-7673
JDeitering@aol.com
Attorney for Debtor

Paul Spaeth
7925 Paragon Road
Suite 101
Dayton, OH 45459
937-223-1655
spaethlaw@phslaw.com
Trustee

Asst US Trustee (Day)
Office of the US Trustee
170 North High Street
Suite 200
Columbus, OH 43215-2417
614-469-7411
USTPRegion09.CB.ECF@usdoj.gov

Us Bank Home Mortgage
Attn: Bankruptcy
Po Box 5229
Cincinnati, OH 45201
Interested Party

If you or your attorney do not take these steps, the court may decide that you do not oppose the Motion and may enter an Order granting said Motion.

Date: January 12, 2017

LAURITO & LAURITO, LLC

/s/ Nicholas E. O'Bryan
Nicholas E. O'Bryan (0082711)
Attorney for Movant
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Dayton, OH 45459
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Fax (937) 743-4877
no'bryan@lauritolaw.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the Motion for Relief from Stay and Notice was forwarded by either ECF Noticing or Regular U S Mail on January 12, 2017 to:

Via ECF Noticing:

Joyce M Deitering
8801 North Main Street
Suite 200
Dayton, OH 45415-1324
(937) 898-7673
JDeitering@aol.com
Attorney for Debtor

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Suite 101
Dayton, OH 45459
937-223-1655
spaethlaw@phslaw.com
Trustee

Asst US Trustee (Day)
Office of the US Trustee
170 North High Street
Suite 200
Columbus, OH 43215-2417
614-469-7411
USTPRegion09.CB.ECF@usdoj.gov

Via Regular U.S. Mail to:

Christopher Shawn Kuhn
8542 Timber Park Dr.
Dayton, OH 45458
Debtor

US Bank Home Mortgage
Attn: Bankruptcy
Po Box 5229
Cincinnati, OH 45201
Interested Party

LAURITO & LAURITO, LLC

/s/ Nicholas E. O'Bryan
Nicholas E. O'Bryan (0082711)
Attorney for Movant